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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

LANCE WILLIAMS,

Petitioner,

v.

ERIC ARNOLD, Warden,

Respondent.

Case No. CV 15-4434-PA (KK)

MEMORANDUM AND ORDER
DENYING PETITION AND
DISMISSING ACTION WITH
PREJUDICE

I.

INTRODUCTION

Petitioner Lance Williams (“Petitioner”) has filed a pro se Petition for Writ of Habeas Corpus (“Petition”) by a Person in State Custody pursuant to Title 28 of the United States Code, section 2254. However, the Court lacks subject matter jurisdiction to consider the Petition. The Court thus denies the Petition and dismisses this action with prejudice.

II.

BACKGROUND

A. **STATE COURT PROCEEDINGS**

On December 13, 2010, Petitioner pled no contest and was convicted of making criminal threats and stalking in violation of California Penal Code sections

1 422 and 646.9(b) in the Los Angeles County Superior Court. ECF Docket No.
 2 (“Dkt.”) 1, Pet. at 2.¹ On January 10, 2011, Petitioner was sentenced to three years
 3 in prison. Id.; see Lodged Document No. (“Lodg.”) 9, Abstract of Judgment.²
 4 Petitioner completed his sentence for the 2010 conviction and was released from
 5 prison sometime before January 22, 2014. People v. Williams, No. B255379, 2015
 6 WL 9311816, at *3 (Cal. Ct. App. Dec. 22, 2015); Lodg. 21, Decl. Nadeen McCool.

7 On January 22, 2014, after a jury trial in the Los Angeles County Superior
 8 Court, Petitioner was convicted of attempted extortion, dissuading a witness from
 9 reporting a crime, and stalking in violation of California Penal Code sections 524,
 10 136.1(b)(1), and 646.9(a). Williams, 2015 WL 9311816, at *3; Los Angeles County
 11 Superior Court, Criminal Case Summary, Case. No. LA075334-01 (Mar. 25, 2016,
 12 1:09 PM), <http://www.lacourt.org/criminalcasesummary/ui/Selection.aspx>. In a
 13 bifurcated trial, the jury found the following allegations true: (1) Petitioner had a
 14 prior serious felony conviction within the meaning of California Penal Code
 15 sections 667(a), 667(b)-(i), and 1170.12; and (2) Petitioner had served a prior
 16 separate prison term for a felony within the meaning of California Penal Code
 17 section 667.5(b). Williams, 2015 WL 9311816, at *1. On March 18, 2014, the
 18 allegations were used to enhance Petitioner’s sentence and Petitioner was
 19 sentenced to thirteen years and eight months in prison. Id. at *3.

20 On August 15, 2014, Petitioner was discharged from the sentence for his
 21 2010 conviction after his three-year term expired. Lodg. 21. Thereafter, Petitioner
 22 remained in prison for his 2014 conviction. Id.

23 **B. FEDERAL HABEAS PROCEEDINGS**

24 On June 7, 2015, Petitioner constructively filed³ the instant Petition. See
 25 Dkt. 1. Petitioner raises four claims: (1) “Petitioner’s incarceration is illegal as to

26 ¹ The Court refers to Petitioner’s pleadings as if he consecutively paginated
 27 them.

28 ² The Court’s citations to Lodgments refer to documents Respondent lodged
 in support of his Motion to Dismiss. Dkt. 31, Notice of Lodging.

1 enhanced sentence for prior plea that was not voluntary because it was based on
 2 misleading information and under duress;” (2) “Petitioner’s incarceration is illegal
 3 as to enhanced sentence for prior plea which is invalid because he did not obtain
 4 benefit of terms in plea agreement that were substantial inducements for plea
 5 constituting breach of plea agreement;” (3) “Petitioner’s incarceration is illegal as
 6 to enhanced sentence for prior plea which should be reversed because he was
 7 denied right to self-representation;” and (4) “Petitioner’s incarceration is illegal as
 8 to enhanced sentence for prior conviction resulting from plea which should be
 9 reversed because he was denied right to effective assistance of counsel in pretrial
 10 and[] postconviction proceedings.” E.g., id. at 5-9.

11 On February 16, 2016, the Court issued an Order to Show Cause (“OSC”)
 12 Why this Action Should Not Be Dismissed Based Upon Lack of Subject Matter
 13 Jurisdiction, Untimeliness, and Lackawanna Cty. Dist. Attorney v. Coss. Dkt. 35,
 14 OSC. On March 13, 2016, Petitioner constructively filed a Response to the OSC,
 15 stating he is “challenging his 2011 plea deal conviction” and claiming the Court has
 16 subject matter jurisdiction over his action “because his 2011 conviction was used to
 17 enhance 2014 conviction.” Dkt. 38, Response at 1-2.

18 III.

19 DISCUSSION

20 THE COURT LACKS SUBJECT MATTER JURISDICTION

21 Section 2254(a) states a “district court shall entertain an application for a
 22 writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a
 23 State court only on the ground that he is in custody in violation of the Constitution
 24 or laws or treaties of the United States.” 28 U.S.C. § 2254. The “in custody”
 25 requirement is jurisdictional, and “therefore it is the first question [the Court]

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 27 ³ Under the “mailbox rule,” when a pro se prisoner gives prison authorities a
 28 pleading to mail to court, the Court deems the pleading constructively filed on the
 date it is signed. Roberts v. Marshall, 627 F.3d 768, 770 n.1 (9th Cir. 2010)
 (citation omitted).

1 must consider.” Bailey v. Hill, 599 F.3d 976, 978 (9th Cir. 2010). A habeas
2 petitioner is not “in custody” once the sentence imposed for the conviction is
3 “fully expired.” Maleng v. Cook, 490 U.S. 488, 491, 109 S. Ct. 1923, 104 L. Ed. 2d
4 540 (1989) (holding a petitioner is not “in custody” for a prior conviction merely
5 because the prior conviction enhanced his current sentence).

6 Here, on January 10, 2011, Petitioner was sentenced to three years in prison
7 for his 2010 conviction. Lodg. 9. By the time Petitioner constructively filed the
8 instant Petition over four years later on June 7, 2015, his sentence for his 2010
9 conviction had been expired for over a year, and he was no longer in custody for the
10 2010 conviction. Dkt. 1. Rather, Petitioner was discharged for the 2010 conviction
11 on August 15, 2014 and is currently in prison for the 2014 conviction alone. Lodg.
12 21. Thus, the Petition must be denied and this action must be dismissed. See
13 Maleng, 490 U.S. at 491.

14 **IV.**

15 **CONCLUSION**

16 IT IS THEREFORE ORDERED that judgment be entered: (1) DENYING
17 the Petition; and (2) DISMISSING this action with prejudice.

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19
20 Dated: March 30, 2016

21 HONORABLE PERCY ANDERSON
22 United States District Judge

23 Presented by:

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27 HONORABLE KENLY KIYA KATO
28 United States Magistrate Judge